



United States Department of the Interior

NATIONAL PARK SERVICE
NORTHEAST REGION
15 State Street
Boston, Massachusetts 02109-3572

July 21, 2011

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TOWN OF KITTERY

Reference: Wood Island, Kittery, Maine
GSA Control Number U-ME-449A

Thank you for arranging transportation for my colleagues and me to Wood Island last month. We appreciate the time you and members of the Wood Island Advisory Committee (WIAC) spent with us touring the island. Seeing the island in person and speaking with you and the committee members helped us sort through the public accessibility and use issue. We now have a much greater appreciation of this resource owned by the Town of Kittery.

After our recent site visit, we came away with the feeling that it is important to keep the island in public ownership, and accordingly, we would like to work with your community to develop an achievable plan for re-opening the island to the public as soon as possible.

The island was deeded to the Town of Kittery for public park and recreational use in 1973. Over the years, the elements and intermittent efforts to maintain and repair the lifesaving station have resulted in loss of historical fabric from the structure and alterations to its original design. Today the deteriorated structure is in unstable condition; the island seawall is crumbling; the dock no longer exists; and the island is not currently safe to allow public use for recreation. In fact, by email dated November 23, 2010, we authorized the Town to post the property with no trespassing signs because of safety concerns.

The Town acquired the island primarily to "be used by boaters in the Piscataqua River area as a place to stop for cookouts, picnics, etc." References to the structures in the original application documents contemplated restoring or removing them. The Town specifically stated they were "willing to undertake the development and responsibility in order to keep the property from being owned by private individuals." Further: "places where people can go ashore from boats are fast disappearing. We feel that this in itself makes Kittery ownership worthwhile."

We reviewed the May, 2009 Wood Island Feasibility Study and found it to be very comprehensive in outlining options and estimated costs. We have no specific recommendation as to what the town should do with the remaining structures on the island. We understand the Town does not have the financial resources in this fiscal climate to restore the structures, and there is no proposed use for the

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building if it were restored. The Town commissioned a structural "observation" report by Attar Engineering, Inc., dated December 6, 2010, which found that the structure looks in worse shape than it may truly be, but went on to list numerous limitations to its repair including the island logistics, the potential inability to flood proof the structure, hazardous materials, etc. The structure continues to deteriorate and poses a significant liability to the town if someone gets hurt while on the island.

Partnership

Over the years the Town has tried various avenues to restore the buildings and maintain the island, including establishing a research facility on the site; working with the Wood Island Preservation Group; seeking collaboration with the American Lighthouse Foundation; and seeking various grants and authorizing various studies of the structure.

We understand there is a "passionate public" of indeterminate size that wants to rehabilitate the structures. We have no objection to the Town of Kittery entering into a concession agreement (a sample copy will be forwarded to you electronically) with a *viable* organization to repair and maintain the structure for public recreational use. The organization would have to have a plan for both the rehabilitation of the structure as well as future maintenance and public recreational use.

The National Park Service (NPS) and the General Services Administration (GSA) have an application for lighthouse transfers which may help the town develop a Request for Proposals (RFP) for the lifesaving station. The key elements are: preservation plan, use plan, financial plan and management plan. Applicants must provide evidence of having a qualifying non-profit status; corporate by-laws; corporate officers; description of succession plan; and number of existing members. If approved, applicants typically provide insurance covering themselves and visiting public.

We understand that a "passionate public" may not be the same as a viable partner, and that the Town has fairly recently attempted to work with a group/individual who backed away from a formal commitment when the Town made reasonable requests in order to protect the town's financial interests. The Town has attempted, over the years, to work with residents in the community to restore the structures on the island with little to no success. If the town feels that the "rehabilitation of structures" option has already been exercised fully, we do not object if the Wood Island Advisory Committee and the Town Council decide not to explore it further.

Demolition

The Wood Island Advisory Committee recommended that the Town Council vote to raze the structures and the State Historic Preservation Office (SHPO) had no objection to this option when representatives of NPS and GSA spoke with the Deputy SHPO on October 30, 2009. While loss of the structure might be sad, it may be the most practical option for Town of Kittery to retain ownership and control of the island.

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Plan

Some of the citizens of Kittery might rightfully object to the town losing ownership and control of the island. The path should be to ascertain whether or not there is a viable partner that has the means and expertise to rehabilitate the building for public use. If a partner cannot be found, the Town should come up with a plan to implement the Wood Island Advisory Committee's recommendation to raze the structures.

Restoration or razing of the structures does not have to happen immediately, but the Town must continue to make progress on a plan to remove the hazards and re-open the island. To date, the Town has spent considerable effort to find solutions, involve the public, but has come to an impasse. The goal is to make the island safe for public recreational use, in the foreseeable future. To that end, the Town should develop a plan, with achievable milestones. The plan should be endorsed by the Wood Island Advisory Committee and Town Council and implementation of the plan should ensue.

By the end of the year, the Town should submit a plan to the NPS outlining how the Wood Island Advisory Committee and the Town Council will proceed in taking the necessary steps to re-open Wood Island for public recreation.

On June 30, 2012, the Town should submit an abbreviated Stewardship Reports that will demonstrate the progress the Town has made to eliminate hazards and re-open the island to the public.

In May, 2015, we will revisit the option to revert the property if the island has not been reopened to the public.

Reversion

At the present time, the National Park Service does not intend to revert (either voluntarily or involuntarily) the property for non-compliance as that would ultimately result in the sale of the property by the General Services Administration (GSA). However, reversion does remain a future option if the public cannot safely use the property for public recreation.

Abrogation

We see no benefit to the Town seeking abrogation of the restrictive deed conditions and we have no authority, at this time, to permit an abrogation. The FLP handbook states:

The statutory language for abrogation of deed conditions is specific and restrictive. Before abrogation is permitted there must be a determination by the Secretary that the property "no longer serves the purpose for which it was transferred," or that such a

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release "will not prevent accomplishment of the purpose for which the property was transferred." The statute further provides that any action to be taken must be concurred with by GSA and may be granted subject to such terms and conditions as shall be deemed necessary to protect or advance the interests of the United States.

We cannot assert that the property no longer serves the purpose for which it was conveyed. In fact, abrogation probably would prevent the accomplishment for the purpose for which it was conveyed.

In closing, we commend you, the Wood Island Advisory Committee and Councilor Spiller on the efforts the Town has made to resolve this dilemma. The studies you have commissioned; the time you have all spent seeking public input and responding to public comments; and your attempts to secure funding have far exceeded what we have seen attempted in the past.

In the interim, please do not hesitate to contact George Robinson at 619-223-5010 or myself at 617-223-5190 if you have any questions or concerns. We look forward to updates on your progress.

Sincerely,



Elyse R. LaForest
Program Manager
Federal Lands to Parks Program

Cc:

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